

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 645 - SB 871

April 11, 2022

SUMMARY OF BILL AS AMENDED (016138, 016414): Prohibits a local governing body (LGB) that expressly authorized property for use as a short-term rental unit (STRU) prior to May 1, 2015, from prohibiting, effectively prohibiting, or otherwise limiting the ability of a person to use an owner-occupied property (OOP), or property that is commercially zoned, as a STRU with exceptions.

Requires LGBs that authorize the use of OOP or commercially zoned property as a STRU through a permitting or application process under current law to send permit or application renewal notices by mail at least 90 days prior to any expiration date and to issue, approve, or deny a permit or application within 30 days of receipt of a permit application; failure of the LGB to approve or deny the permit or application within 30 days will result in the permit or application being deemed approved. Requires LGBs to provide written notice by mail to denied applicants detailing lawful reasons for the denial and prohibits LGBs from preventing a denied applicant from reapplying.

Specifies that a violation of a generally applicable local law must occur three or more times within a twelve-month period in order for an LGB to prohibit the use of property, OOP, or commercially zoned property as a STRU.

Requires a court to award litigation costs and fees to a plaintiff who prevails in a civil action brought to challenge an LGB's prohibition, effective prohibition, suspension, or regulation of an OOP or commercially zoned property used as a STRU.

Changes the statutory definition of an LGB to include new requirements and, thus, exclude certain LGBs from the Short-Term Rental Unit Act, including the provisions of the proposed legislation.

Exempts from the proposed legislation the following counties: Sevier and Sullivan, and the following incorporated towns or cities: Gatlinburg, Pigeon Forge, Pittman Center, Sevierville, Bluff City, Bristol, Johnson City, and Kingsport.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

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Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 13-7-603 and § 13-7-604, local ordinances, regulations, and requirements governing STRUs which are in place on the date a property becomes a STRU, are the ordinances, regulations, and requirements which govern such property until the property is sold, transferred, ceases to be a STRU for 30 continuous months, or is found in violation of such local requirements three or more times.
- The proposed legislation prohibits an LGB that expressly authorized property for use as a STRU prior to May 1, 2015, from prohibiting, effectively prohibiting, or otherwise limiting the ability of a person to use an OOP or commercially zoned property as a STRU.
- Per the proposed legislation, an LGB had expressly authorized property for use as a STRU prior to May 1, 2015, if:
 - The LGB had introduced and passed an ordinance, resolution, regulation, rule, or other requirement specifically governing owner-occupied STRUs on final reading on or before May 1, 2015, regardless of the date of enforcement of the resolution, regulation, rule, or other requirement; and
 - On or before May 1, 2015, the LGB had issued a permit or approved an application for use of a property as an owner-occupied STRU within the jurisdiction of the LGB.
- Current law provides conditions under which an LGB may prohibit, effectively prohibit, or otherwise limit the ability of a person to use property as a STRU. The prohibition under the proposed legislation includes these exceptions; therefore, any fiscal impact to local government is estimated to be not significant.
- It is not known how many OOPs or commercially zoned properties are currently used as STRUs across the state. Requiring LGBs to send renewal notices by mail 90 days prior to the expiration date will result in a mandatory increase to local expenditures.
- It can reasonably be assumed that LGBs will offset any increase to expenditures by increasing the permit fee for STRUs; the net impact to local government is estimated to be not significant.
- Requiring LGBs to process and act on an application within 30 days of its receipt and notify denials may result in an increase to workloads for LGBs with higher numbers of STRUs applications, but it is expected that any additional work can be completed with existing resources and personnel.
- Specifying that a violation of a generally applicable local law must occur three or more times within a twelve-month period in order for an LGB to prohibit the use of property as a STRU will not have any significant impact to local government.
- There is not expected to be a significant number of plaintiffs who prevail in a civil action. Any impact to local government expenditures is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 13-7-602(3), “local governing body” means the legislative body of a city, municipality, county, or other political subdivision of this state that has authority to enact a zoning ordinance, resolution, regulation, rule, or other requirement of any type regarding land use in its jurisdiction.
- The proposed legislation expands this definition and requires a legislative body to also employ at least one full-time or part-time law enforcement officer.

- At the time of this analysis, there is only one known LGB that does not employ at least one full-time or part-time law enforcement officer, though, others may exist and be excluded from the provisions of the proposed legislation.
- Excluding certain LGBs from the requirements of the Short-Term Rental Unit Act, including the proposed legislation, is not expected to result in any significant impact to local government.
- Exempting certain counties and incorporated towns or cities will have no significant impact to local government.

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumption for the bill as amended:

- Per the proposed legislation, an OOP is not owned or co-owned by a business entity; therefore, any impact to jobs or commerce in Tennessee is estimated to be not significant.
- Current law provides conditions under which an LGB may prohibit, effectively prohibit, or otherwise limit the ability of a person to use property as a STRU.
- The prohibition under the proposed legislation includes these exceptions; therefore, prohibiting LGBs from prohibiting, effectively prohibiting, or otherwise limiting the ability of a person to use property that is commercially zoned as a STRU is not expected to have any significant impact to jobs or commerce in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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